IX. MINORITY VIEWS OF SENATORS HELMS, LUGAR, HAGEL, FRIST, ALLEN, BROWNBACK, AND ENZI

BACKGROUND

In 1994, Senators Helms, Kassebaum, Brown, Coverdell and Gregg filed Minority Views expressing their concern about the substance of the Convention on the Elimination of All Forms of Discrimination Against Women ("the Convention") when it was reported by this Committee (*see* Exec. Rept. 103–38, p. 53).

In 2002, the Convention's substance continues to generate concern for the minority, as set out below. The minority registers an additional concern over the majority's haste in ordering the Convention to be reported before receiving Executive Branch views.

PROCEDURE

No hearings on the Convention were held between September 27, 1994 and June 13, 2002. On the latter date, the majority held a hearing on the Convention with private witnesses. The majority declined the Executive Branch's request to postpone hearings on the Convention until an Executive Branch review of the Convention has been concluded. The majority also opted against inviting U.S. Department of State witnesses eventually proffered by the Executive Branch for the June 13, 2002, hearing.

On July 8, 2002, Secretary of State Colin Powell wrote to Senator Biden, Committee Chairman, and noted that the Convention raises a number of issues that must be addressed before the Senate provides its advice and consent. Secretary Powell wrote that it is necessary for the Executive Branch to determine what reservations, understandings and declarations may be required as part of the ratification process. Secretary Powell also wrote that "a careful review is appropriate and necessary" and that the Departments of State and Justice were conducting a review "as expeditiously as possible."

On July 15, 2002, Senator Helms wrote to the Chairman to request that Committee action on the Convention be deferred until the Senator's return to Washington.

On July 19, 2002, Assistant to the President for National Security Affairs Condoleeza Rice wrote to The Honorable Joseph Pitts, a member of the U.S. House of Representatives, and set forth the importance of Executive Branch review of the Convention prior to Senate action.

On July 26, 2002, Assistant Attorney General for Legislative Affairs Daniel J. Bryant wrote to the Chairman, referencing Secretary Powell's July 8 letter, to request that the Chairman await completion of the Administration's review [of the Convention] "before commencing a committee vote on CEDAW." In the alternative,

Assistant Attorney General Bryant urged Committee members to vote against ordering the Convention reported until completion of the review.

The full texts of the Powell and Bryant letters are included as attachments to this section.

On July 30, 2002, the majority took up the Convention at the Committee's Business Meeting and ordered it reported by a vote of 12–7. The State Department-Justice Department review of the Convention had not been completed at the time of the vote, and the minority understands that, as of the date of filing of this Report, the Executive Branch review had not been completed.

The minority's strong preference was to defer Committee action on the Convention until after completion of the Executive Branch review and Senator Helms' return. Instead, the majority ordered the Convention reported without hearing Executive Branch witnesses, and without an updated Executive Branch legal analysis reflecting domestic and international legal developments since 1994 which could affect the Convention's application in the United States.

The Convention is the most ambitious multilateral convention on women ever undertaken by the international community. The minority feels that the current Administration's legal analysis, together with the Administration's views about whether a package of reservations, understandings and declarations can be crafted that would permit United States adherence to the Convention, would have been—and remain—critical to a thorough understanding of the Convention's potential impact on the American people and their institutions.

The minority recommends that the Senate defer action on the Convention until the Administration's analysis and views are available.

SUBSTANCE

As the Carter Administration indicated in 1980 when it submitted the Convention to the Senate for advice and consent, important issues concerning division of Federal-State powers are presented by several of its provisions. The Convention has also generated vigorous debate about the implications of U.S. compliance with regard to important social issues such as abortion on demand (including restrictions on Federal funding), comparable worth salary laws, women in the military, same-sex marriage, health care, single-sex education and potential government intrusion into areas traditionally within the scope of family privacy. That debate perforce must continue, given that these issues have not, unfortunately, been laid to rest by Committee action on the Convention.

As stated above, in 1994 the minority of Committee members voting against reporting the Convention included Senators Helms, Kassebaum, Brown, Coverdell and Gregg. The 1994 minority felt that the Convention represented yet another set of unenforceable international standards that would further dilute—not strengthen—international human rights standards for women around the world. The 1994 minority also noted that many parties to the Con-

vention had abysmal human rights records, especially for women. Some were even designated by the U.S. Department of State as state sponsors of terrorism.

The minority in 1994 noted that the United States has the strongest record on opportunities and rights for women in the world, and that ratification of the Convention, rather than improving that record, would raise divisive social issues such as those noted above. Moreover, the 1994 minority felt that the Convention's definition of "discrimination against women" is so broad that it would apply to private organizations and areas of personal conduct not covered by U.S. law.

In 2002, the minority feels that the Convention raises a number of complex and important issues which should have been explored further in one or more hearings with the current Administration's witnesses, and—assuming an Administration desire to go forward with the Convention following its review—which should be addressed in an appropriate resolution of ratification.

JESSE HELMS. RICHARD G. LUGAR. CHUCK HAGEL. BILL FRIST. GEORGE ALLEN. SAM BROWNBACK. MICHAEL B. ENZI.

[The letters referred to above follow:]

THE SECRETARY OF STATE,
Washington, July 8, 2002.

Hon. JOSEPH R. BIDEN, JR., *Chairman,*
Committee on Foreign Relations,
U.S. Senate.

Dear Mr. Chairman:

Thank you for your letters of June 17 to Attorney General Ashcroft and me regarding the Foreign Relations Committee's June 1 hearing concerning the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). This replies to both letters.

Addressing the issues confronting women—from suffrage to gender-based violence—is a priority of this Administration. We are committed to ensuring that promotion of the rights of women is fully integrated into American foreign policy. Our recent actions in Afghanistan underscore this commitment to promote the rights of girls and women who suffered under the draconian Taliban rule, including in education, employment, healthcare, and other areas. It is for these and other reasons that the Administration supports CEDAW's general goal of eradicating invidious discrimination against women across the globe.

The vagueness of the text of CEDAW and the record of the official U.N. body that reviews and comments on the implementation of the Convention, on the other hand, raise a number of issues that must be addressed before the United States Senate provides its advice and consent. We believe consideration of these issues is particularly necessary to determine what reservations, understandings and declarations may be required as part of the ratification process.

As you are aware, the Committee on the Elimination of Discrimination Against Women prepares reports and recommendations to State Parties. Portions of some of these reports and recommendations have addressed serious problems in useful and positive ways, such as women and girls who are victims of terrorism (Algeria) [1]

[1] Concluding Observations on the Committee on the Elimination of Discrimination Against Women: Algeria, 27/01/99, paragraphs 77–78.

and trafficking in women and girls (Burma).[2] However, other reports and recommendations have raised troubling questions in their substance and analysis, such as the Committee's reports on Belarus (addressing Mother's Day),[3] China (legalized prostitution),[4] and Croatia (abortion).[5]

State Parties have always retained the discretion on whether to implement any recommendations made by the Committee. The existence of this body of reports, however, has led us to review both the treaty and the Committee's comments to understand the basis, practical effect, and any possible implications of the reports. We are also examining those aspects of the treaty that address areas of law that have traditionally been left to the individual States. The complexity of this treaty raises additional important issues, and we are examining those as well.

In mid-April, when the Administration learned that the Committee had set a hearing date for consideration of CEDAW, the Departments of State and Justice began a review of this Convention to assess the need for reservations, understandings, and declarations different from or in addition to those reported out by the Committee in Exec. Rept. 103–38 in October, 1994. Given the passage of time since the last Senate hearing and the breadth of the issues touched upon by the Convention, we believe that a careful review is appropriate and necessary. This review is proceeding as expeditiously as possible.

Although the Administration supports CEDAW's general goals, it believes that eighteen other treaties are either in urgent need of Senate approval or of a very high priority. In addition to the seventeen treaties listed in higher categories on the treaty priority list that are still pending, the Moscow Treaty on the reduction of strategic arms, which was transmitted to the Senate in June, is among our most pressing national security needs and foreign policy interests. At the same time as the Administration is carrying out its review of CEDAW, we hope we can work with the Committee on these high priority treaties. Once our review of CEDAW is complete, we look forward to presenting our views to your Committee.

I would like to take this opportunity to thank you for recently guiding the two Protocols to the Rights of the Child Convention through the advice and consent process at the U.S. Senate. This is a good example of successful cooperation between your Committee and the Administration to advance treaties that are high priorities for our Nation's foreign policy.

Sincerely,

COLIN L. POWELL,
Secretary of State.

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
OFFICE OF THE ASSISTANT ATTORNEY GENERAL,
Washington, July 26, 2002.

Hon. JOSEPH R. BIDEN, JR., *Chairman,*
Committee on Foreign Relations,
U.S. Senate.

Dear Chairman Biden:

I write in response to your letters of June 17 and July 11, 2002 concerning the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), upon which the Foreign Relations Committee is considering voting in the near future. While the Department of State typically takes the lead in responding to correspondence from the Senate Committee of Foreign Relations, at your insistence I am responding directly on behalf of the Department of Justice.

As indicated in Secretary Powell's July 8 letter to you, the Administration is currently reviewing CEDAW to determine what reservations, understandings, and declarations (RUDs) may be required in addition to those reported out by the Com-

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[2] Concluding Observations on the Committee on the Elimination of Discrimination Against Women: Myanmar, 28/01/2000, paragraphs 119–120.

[3] Concluding Observations on the Committee on the Elimination of Discrimination Against Women: Belarus, 31/0–1/2000, paragraph 361.

[4] Concluding Observations on the Committee on the Elimination of Discrimination Against Women: China, 03/02/99, paragraphs 288–289.

[5] Concluding Observations on the Committee on the Elimination of Discrimination Against Women: Croatia, 14/05/98, paragraphs 109, 117.

mittee in Exec. Rept. 103–38 in October 1994. While this review is not yet complete, the Administration is certain that the 1994 RUDs are insufficient to address the various concerns raised by CEDAW. For example, the 1994 RUDs do not address the controversial interpretations advanced by the official U.N. implementation committee after those RUDs were issued. Among other things, that committee questioned the celebration of Mother's Day in a January 2000 report to Belarus:

> The Committee is concerned by the continuing prevalence of sex-role stereotypes and by the reintroduction of such symbols as a Mother's Day and a Mother's Award, which it sees as encouraging women's traditional roles. [1]

And in a March 1999 report to China, it called for legalized prostitution:

> The Committee is concerned that prostitution, which is often a result of poverty and economic deprivation, is illegal in China. ... The Committee recommends decriminalization of prostitution. [2]

These are but two examples of the instances in which this committee has exploited CEDAW'S vague text to advance positions contrary to American law and sensibilities.

Nor does your recent draft resolution of ratification address these concerns. It does not, for example, address whether other interpretive bodies, whether foreign, international, or, indeed, domestic, could adopt similarly bizarre interpretations of CEDAW's vague text, or what deference, if any, these bodies would accord the official U.N. implementation committee. (As we have recently witnessed in the Pledge of Allegiance case, there are, regrettably, judges who will engage in aggressively counterintuitive interpretations of legal texts.) The implementation committee, moreover, has now begun "[t]he process of interpreting the substantive articles of the Convention" and to "formally ... interpret the rights guaranteed in the Convention." [3] Your draft resolution, however, does not address the effect of these formal interpretations on domestic and international law. These concerns remain, regardless of whether, in the words of your draft resolution, the implementation committee has the "authority to compel actions by State parties."

It is crucial, therefore, that we fully understand the implications of these rulings on parties that join CEDAW after they have been issued, as well as the consequences of any rulings that might issue after a state becomes party to the treaty. In addition, we must fully understand the numerous other issues raised by CEDAW, such as its implications on current U.S. constitutional and statutory law and areas of law traditionally regulated by the States. The complexity of this treaty raises many other important issues that are not addressed in your draft resolution, which we are examining as well.

This is not the first Administration, nor the first Senate, to recognize the magnitude of the issues raised by CEDAW. As you know, this treaty has been before the United States Senate for twenty-two years. During this time period, it has been before a Democratic Senate with a Democratic President (President Carter), a Republican Senate with a Republican President (President Reagan), a Democratic Senate with a Republican President (President Reagan), a Democratic Senate with another Republican President (President George H.W. Bush), a Democratic Senate with a Democratic President (President Clinton), and a Republican Senate with a Democratic President (President Clinton). In other words, regardless of which party controlled either the Senate or the Presidency, the Senate has declined to act on this treaty for twenty-two years. In this context, it would be imprudent to act with undue haste before we have had an opportunity to conduct a full and fair review of this treaty, particularly in light of the recent actions taken by the U.N. implementation committee (and the future actions that it has announced its intention to take).

As Secretary Powell explained in his July 8 letter to you, the Administration is in the process of conducting a review of CEDAW in order to determine the scope of the additional RUDs that may be required to address these issues, and will share our views with you once our review is complete. The Administration is conducting this review thoroughly and expeditiously. Any vote at this time, however, would be premature, particularly in light of the more than thirty other treaties currently be-

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[1] Concluding Observations of the Committee on the Elimination of Discrimination Against Women: Belarus, 31/01/2000, paragraph 361.

[2] Concluding Observations of the Committee on the Elimination of Discrimination Against Women: China, 03/02/99, paragraphs 288–289.

[3] Fact Sheet No. 22, Discrimination Against Women: The Convention And The Committee, available at [www.unhcr.ch/html/menu6/2/fs22.htm].

fore the committee that are higher priorities for our national security and foreign policy. Accordingly, we respectfully request that you await completion of the Administration's review before commencing a committee vote on CEDAW. Should you decline to do so, we respectfully urge members of the committee to vote against sending CEDAW to the full Senate until our review is complete.

Thank you for your attention to this matter.

Sincerely,

DANIEL J. BRYANT,
Assistant Attorney General.

cc: The Honorable Jesse Helms, *Ranking Minority Member,*
The Honorable Richard Lugar.

X. ADDITIONAL VIEWS OF SENATORS HELMS, BROWNBACK, AND ENZI

This Foreign Relations Committee Report should not be relied on by any U.S. federal, state, or local authority, including courts, as Senate legislative history for the United Nations Convention on the Elimination of All Forms of Discrimination Against Women.

This Report is not reliable for the following reasons.

First, it does not reflect the views of the present Administration. The majority declined to honor requests from the Departments of State and Justice, and from Senator Helms, to defer action on the Convention until the Administration's views could be presented to the Committee.

Second, the draft resolution of ratification included in this Report is not supported by the Executive Branch. At the time of the Committee's action on this Report, the Executive Branch had informed the Committee that an indispensable review was underway of alternative measures necessary in any CEDAW resolution of ratification. Yet the majority declined to defer action on CEDAW until that review had been completed and the results made available to the Committee. As a result, the Committee has recommended ratification of a treaty without knowledge or identification of the protective measures necessary to avoid a potentially massive disruption of well-settled U.S. domestic law. Such an act is an unfortunate failure to fulfill Committee responsibilities to the Senate and the nation.

Third, this Report was approved without benefit of the testimony of a single Bush Administration witness. The majority declined to accept the Executive Branch witnesses offered for the June 13, 2002, hearing, and further declined to defer action on CEDAW to provide an opportunity for a Bush Administration witness to appear after that date. The Committee thus declined to consider the most relevant and expert testimony available on the subject.

Fourth, neither the draft resolution of ratification included in this Report nor the explanation of CEDAW's provisions reflects the state of relevant U.S. law on the date of the Committee's vote to report CEDAW. Eight years of U.S. federal and state jurisprudence were not taken into account in preparation of the draft resolution of ratification. Precipitous action by the Senate, as recommended by the majority, will lead to unnecessary litigation in the United States of unknown proportions because the majority has no knowledge of the present vulnerability of U.S. domestic law to unintentional displacement. Even worse, the majority refused to wait for the Administration's legal review to be completed and presented, thus turning its back on the only mechanism available to predict the severity of CEDAW's disruptive impact and the protective measures necessary to avoid it.

When CEDAW was reported by the Committee in 1994, Senators Helms, Kassebaum, Brown, Coverdell, and Gregg filed Minority Views.

While recognizing the unfortunate prevalence of violence and human rights abuse against women around the world, and a shared desire to eliminate discrimination against women, the indicated Senators expressed concerns that CEDAW and treaties like it lead to dilution of moral suasion undergirding existing covenants on fundamental human rights, which, to be effective, are necessarily restricted in scope. The Senators also registered concern over CEDAW as an example of a disturbing trend among executive branch officials and non-governmental organizations to devote resources, energy, and political will to the ratification of multilateral treaties rather than to promotion of the norms represented by those treaties in the countries where they are under attack.

In 2002, it is apparent that nothing has occurred since 1994 to justify changing the views described above. On the contrary much has occurred since 1994 to underscore the wisdom of those views.

Today, as in 1994, many Senators in the minority and several in the majority agree that nowhere are women better protected from discrimination than in the United States. CEDAW proponents often argue that U.S. ratification of CEDAW is essential to ensuring its protections outside our borders. This is a non sequitur, and an argument not borne out by experience with other multilateral agreements. Moreover, it conflicts with the constitutional standard for Senate action, namely, whether the contemplated action is good for the American people.

Insofar as the level of our country's commitment to the protection of human rights abroad is concerned, we feel it is enough to note that as these lines were being drafted American forces were deployed in combat conditions in Afghanistan. It is through their personal heroism and sacrifice, not a multilateral treaty, that Afghan women have been relieved of the burden of an oppressive, anti-woman government whose equally lawless predecessor signed CEDAW in 1980.

CEDAW proponents who lump the United States with oppressive dictatorships which have not ratified this treaty rob themselves of credibility by ignoring the fact that in ratifying CEDAW our country would find itself in the company of regimes like North Korea. They and their ilk have embraced CEDAW as a fig leaf for many years.

CEDAW plainly represents a disturbing international trend exalting international law over constitutionally-based domestic law and local self-government. This trend gathered momentum during the Clinton Administration. It is illustrated by the Kyoto Protocol to the United Nations Framework Convention on Climate Change, the United Nations Convention on the Rights of the Child, and the Rome Statute Establishing a Permanent International Criminal Court. All of these instruments were opened for signature after the Senate acted on CEDAW in 1994. The trend is in conflict with U.S. constitutional traditions of self-government. To undermine these traditions is to undermine the foundation of American federalism,

which cost many years to establish and thousands of lives in a fratricidal civil war.

Ratification of CEDAW will help lawyers and other pro-abortion advocates reach the goal of enshrining unrestricted access to abortion in the United States. Recently a lawsuit entitled *Center for Reproductive Law and Policy (CRLP)* vs. *Bush* was filed in the United States District Court for the Southern District of New York (2001 U.S. Dist. LEXIS 10903). (N.B. In 2002, CRLP opposed the efforts of a Pennsylvania man to prevent abortion of the unborn child he fathered with a Pennsylvania woman.)

Although the New York case was dismissed, it illustrates pro-abortion strategy. Plaintiff CRLP stated in its complaint that "[i]n order to prepare for the eventuality that [*Roe* v. *Wade*] may be overruled by the United States Supreme Court and that, consequently, the United States Constitution no longer protects women's right to choose abortion, CRLP has worked and will continue to work to guarantee that the right to abortion be protected as an internationally recognized human right . . . [under] customary international law . . . *Customary international law also preempts inconsistent state statutes and policies* (emphasis added). Thus, by working to establish the right of abortion as a human right in customary international law, CRLP fulfills its mission of protecting women's access to abortion [in the United States] from interference or prohibition by the States." (Complaint, paragraphs 76, 78).

Julia Ernst, a plaintiff in this case, has written about CEDAW: "Commentators are calling upon the United States judiciary *to utilize international law as a guide to interpreting the U.S. Constitution* (emphasis added), and domestic courts are increasingly taking international human rights law into account in their decisions. The United States should not deprive itself of the opportunity to participate in the formulation of these international legal principles. *One of these opportunities entails participation in [CEDAW].*" (emphasis added) (3 Mich. J. Gender & L.299, 317).

The CRLP case and views of one of its plaintiffs leave no doubt that despite assurances from CEDAW backers that the treaty is "neutral" on abortion, CEDAW proponents are not. Abortion activists will work to use CEDAW to neutralize the democratic will of federal and state legislators. The treaty will also be used to erode other traditional prerogatives of the states by intruding in issues like marriage and child-rearing.

Ratification of CEDAW will invite meddling in all of these areas by the CEDAW-established compliance "Committee." The Committee, which is composed in part of gender activists sent by dictatorships which oppress women, has issued bizarre recommendations against Mothers Day in Belarus and in favor of legalization of prostitution in China. Using such recommendations, CEDAW backers will press federal and state judges to adopt completely unforeseen and unintended interpretations of the treaty in order to force changes in well-settled U.S. law and policy.

Finally, the minority opposes assumption by the United States of yet another financial burden on behalf of a growing United Nations bureaucracy.

The Senate should decline to proceed to consideration of CEDAW.

JESSE HELMS. SAM BROWNBACK.
MICHAEL B. ENZI.

XI. ADDITIONAL VIEWS OF SENATOR FRIST

I agree with my colleagues that there is no nation more committed to upholding the human dignity of women than the United States. And like my colleagues and the Administration, I am committed to furthering the rights of women both at home and abroad. But I cannot support ratification of this Treaty as reported by this Committee.

Many issues with respect to this Treaty remain unaddressed. Our Constitutional prerogative of Advice and Consent under Article II, section 2, is not only a right but a responsibility and I regret that we could not hear from the Administration on its concerns and recommendations before proceeding to its consideration in Committee.

Like my colleagues, I am troubled by the vagueness of the text of this Treaty. Nor is there anything clear or predictive about the evolving opinions of the Committee on the Elimination Against Discrimination Against Women (the Convention Committee), the official UN body charged with this Convention's interpretation. I do not believe that it makes sense to dismiss lightly the weight of authority given to these interpretations.

As Senator Helms, my colleagues, and numerous legal scholars have pointed out, policy norms, interpreted by such official bodies, have increasingly entered the U.S. judicial system as customary international law. Some proponents of vaguely worded treaties have advanced the concept that modern interpretation of international law requires the incorporation of such interpretations into the U.S. legal system. Such a development would created an unwarranted loophole through which purported customary international law—such as pronouncements by official UN committees—would be held binding under U.S. domestic law with little or no scrutiny by our nation's lawmakers.

CEDAW supporters have claimed that the treaty, as interpreted by the CEDAW Committee, represents customary international law. While such a claim would be widely presumptive and premature, it cannot be ignored. As a general rule, customary international law is treated as having the same supremacy as federal statutes over conflicting state and municipal law in the U.S. legal system. Under the Supremacy Clause and the doctrine of preemption, if a conflict arises between state law or previously enacted federal statute and a treaty provision, the treaty, the treaty will prevail.

I find troubling the notion that UN committees, unaccountable to the U.S. political system could be empowered to proscribe enforceable rules of law under the guise of customary international law that claim sovereignty over the laws of our elected officials. Such a proposition is antithetical to the U.S. Constitution and America's

most cherished ideas of due process, separation of powers in government, and the guarantee that legislators will be held accountable through the elective process.

Furthermore, the text of the Convention itself purports to limit the Senate's constitutional right of Advice and Consent. Article 28, section 2 of the Convention states that "a reservation incompatible with the object and purpose of the present Convention *shall not* be permitted." (Emphasis added) The scope and parameters of this Article are not, to me, self-evident. I can only presume the interpretation of this Article would be subject to the Convention Committee. In my opinion, this Article conflicts with the constitutional role of the Senate to provide Advice and Consent, which includes making reservations which this Body may deem necessary to make the Convention consistent with the laws of this nation. Indeed, for that matter, that power must encompass any reservation that falls within our constitutional authority to mandate.

I am not persuaded by the argument that we must ratify this Treaty because other nations have or have not ratified it. We must base our consent to this Treaty upon its merits or deficiencies. I would point out, however, that much of the world still lives in societies that do not honor basic democratic civil liberties. Many of the nations that have ratified this Convention continue to build records that catalogue some of the worst human rights violations ever committed against women.

It is my hope that the Senate will not proceed with consideration of this Treaty unless and until we have the benefit of the Administration's views and recommendations on how best to address these issues of fundamental importance.

BILL FRIST.

XII. ADDITIONAL VIEWS OF SENATOR ALLEN

I am fully committed to ensuring that promotion of the rights of women is fully integrated into U.S. foreign and domestic policy and I support the general goal of eradicating discrimination against women in the U.S. and across the globe. However, I did not vote to send this treaty to the floor for full Senate consideration.

First, the President's senior cabinet members—the Secretary of State and the Attorney General—have requested more time to consider the Convention and to propose an appropriate ratification package containing reservations, understandings, and declarations. The Senate should honor that request.

The Constitutional role of the Senate in these matters is that of advice and consent, not initiation. The President has deferred his request for advice and consent until the Justice Department review is completed. The Senate should await that review before considering this Convention.

There need be no rush to ratification. There is no emergency. This Convention has been on the Committee calendar for 22 years.

Second, the vagueness of the text of the Convention, and the record of the official UN body that reviews and comments on the implementation of the Convention, raise a number of issues that must be addressed before the United States Senate provides its advice and consent.

I believe consideration of these issues is particularly necessary to determine what reservations, understandings and declarations may be required as part of the ratification process.

The Committee on the Elimination of Discrimination Against Women prepares reports and recommendations to State Parties. The existence of this body of reports should lead us to review both the Convention and the Committee's comments to understand the basis, practical effect, and any possible implications of the reports.

We should also examine those aspects of the Convention that address areas of law that, in the United States, have traditionally been left to the individual States.

For example, in a March 1999 report to China, the Committee called for legalized prostitution, saying: "The Committee is concerned that prostitution, which is often a result of poverty and economic deprivation, is illegal in China ... . The Committee recommends decriminalization of prostitution."

If the Senate ratifies this Convention, the United States would subject itself to criticism and condemnation by this Committee, which is composed of representatives of countries that are signatories of the Convention.

To provide a preview of what the United States may expect, I give you a brief list of member states and signatories of the Con-

vention that, potentially, will sit in judgment on United States' practices and conditions concerning women:

- Afghanistan signed the Convention in 1980. Until the United States and allied forces recently liberated Afghanistan, its women were oppressed by a series of governments, denying them basic freedoms and education opportunities.
- The Peoples' Republic of China signed the Convention in 1980. It has an official policy of forced abortion and sterilizations for the women of the country who dare have more than one child.
- Cuba signed the Convention in 1980. In 1994 Castro murdered 41 women, girls and others who attempted to escape the tyrannical and repressive Castro regime aboard the tugboat *13 de Marzo.*
- Saudi Arabia signed the Convention in 2000. Yet it treats its women as second-class citizens.

These are not examples of enlightened thought. Indeed, our nation with its Constitutional foundation of freedom and opportunity for all her citizens—regardless of race, ethnicity, religion or gender—is the beacon of hope for the entire world. Our goal must be to lift the human rights of women, and indeed all our people to this standard, not lower the bar to that of repressive regimes.

It is important that we fully understand the implications of the Committee, rulings on parties that join the Convention after they have been issued, as well as the consequences of any ruling that might result after a nation becomes party to the Convention.

In addition, we must fully understand the numerous other issues raised by the Convention, such as its implication on current U.S. constitutional and statutory law and areas of law traditionally the prerogatives of the people in the States.

As indicated in a July 8, 2002 letter from Secretary Powell, a July 26, 2002 letter from the Assistant Attorney General, and a July 19, 2002 letter from Condoleezza Rice, the Assistant to the President for National Security Affairs, the Administration is conducting a thorough and expeditious review of this Convention. The vote to order CEDAW reported was premature, particularly in light of the more than thirty other treaties currently before the Foreign Relations Committee that are higher priorities for our national security and foreign policy.

GEORGE ALLEN.